7632144/2023/TW-LTR-I-SOW01

GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

TRIBAL WELFARE DEPARTMENT - LTR - Sri Gantla Laxmayya, S/o.Laxmayya, R/o. Rajavommangi (V&M), Alluri Sitharamaraju District has filed a Revision Petition before the Government of A.P., against the orders of the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District in CMA No.29/2003, dt.17.5.2008 in respect of land measuring Acs.0.45 cts in Sy.No.271/6 of Rajavommangi (V&M) of the Alluri Siitharamaraju District erstwhile East Godavari District - Dismissed- Orders-Issued.

SOCIAL WELFARE (TW.LTR.I) DEPARTMENT

G.O.MS.No.45 **Dated:14.07.2023**

Read the following:

1. Revision Petition filed by Sri Gantla Laxmayya, S/o.Laxmayya, R/o.Rajavommangi (V&M), Alluri Sitharamaraju District before the Hon'ble Dy.CM (TW), dated.04.08.2008 together with its enclosures.
2. Hon'ble High Court order in W.P.No. 18102 of 2008, dt.20.08.2008 filed by Sri Gantla Laxmayya, S/o. Laxmayya, R/o. Rajavommangi (V&M), Alluri Sitharamaraju District.
3. From the Project Officer, ITDA, Rampachodavaram, Alluri Sitharamaraju District, C.M.A.No.29/2003, Dated: 08.01.2013.

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O R D E R :

In the reference 1st read above, Sri Gantla Laxmayya, S/o.Laxmayya, R/o. Rajavommangi (V&M), Alluri Sitharamaraju District erstwhile East Godavari District has filed a Revision petition before the Government of A.P., against the orders of Additional Agent to Government cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District in CMA No.29/2003, dated.17.5.2008 in respect of land measuring Acs.0.45 cts in Sy.No.271/6 of Rajavommangi (V&M), Alluri Sitharamaraju District.

2**. Brief history of the subject case:**

a) The Tribal Petitioners Smt.Lingeti Laxmi, W/o. Rambabu, Rajavommangi (V&M), Alluri Sitharamaraju District has filed a Complaint under section 3(1) A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70 for restoration of Petition Scheduled land after ejecting the non-tribal respondent.

(P.T.O)

b) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District after due enquiry and verification of records has concluded that the tax receipt is not genuine one and the sale deed and agreement are not correlated to each other and the sale took place on day of sale deed i.e., 06.05.1970 only, in violation of Sec.3(2)(a) of Regulation 1/59 as amended by 1/70 and hence it is held and void.

c) Hence, The Special Deputy Collector(TW), Rampachodavaram, Alluri Sitharamaraju District under section 3(2)(a) of APSALTR 1/59 as amended by 1/70 has ordered for ejection of Petition Scheduled land from non tribal respondent and for restoration of the same to Government for onward distribution to eligible tribals. The case of tribal petitioner will be considered for assignment as per eligibility and directed the MRO, Rajavommangi Mandal to implement the orders and report compliance vide LTRP No.282/2002, dated.31.05.2003.

d) Aggrieved by the orders of the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District, Sri Gantla Laxmayya, S/o. Laxmayya, Rajavommangi (V&M), Alluri Sitharamaraju District has filed an appeal against the orders LTRP No.282/2002, dated.31.05.2003 before the Addl. Agent to Govt. cum Project Officer, I.T.D.A., Rampachodavaram, Alluri Sitharamaraju District.

e) After careful examination of the matter, the Additional Agent to Government cum Project Officer, ITDA, Rampachodavaram has allowed the appeal filed by the Sri Gantla Laxmayya, S/o. Laxmayya, Rajavommangi (V&M), Alluri Sitharamaraju District with regard to the scheduled property covered by measuring Sy.No.271/6 for an extent of Ac. 0.45 of Rajavommangi (V&M), Alluri Sitharamaraju District and in C.M.A.No.29/2003, dated.07.05.2008, upheld the orders passed by the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP No. 282/2002, dt. 31.05.2003.

3. Aggrieved by the above orders, Sri Gantla Laxmayya, S/o. Laxmayya, R/o. Rajavommangi (V&M), Alluri Sitharamaraju District has filed a Revision petition dated.04.08.2008 before the Government of A.P., against the orders of the Addl. Agent to the Govt. cum Project Officer, ITDA, Rampachodavaram in C.M.A.No. 29/2003, dated.07.05.2008 with a request to grant interim order and suspend the order passed by the Addl. Agent to Govt. cum Project Officer, ITDA, Rampachodavaram in the interest of justice.

4. Meanwhile, the petitioner Sri Gantla Laxmayya, S/o. Laxmayya, R/o. Rajavommangi (V&M), Alluri Sitharamaraju District has filed W.P.No.18102 of 2008, dated.20.08.2008 before the Hon'ble High Court issued orders that there shall be status quo with regard to possession of the land admeasuring Ac.0.45 cts in Sy.No.271/6 of Rajavommangi Village & Mandal, Alluri Sitharamaraju District pending disposal of the Revision or the application seeking interim suspension of the order passed by the appellate authority which is earlier. Accordingly the writ petition is disposed off. No costs.

5. The Project Officer, ITDA, Rampachodavaram cum the Additional Agent to the Government has been requested to furnish the detailed Parawise remarks and connected records in the subject case so as to dispose of the Revision Petition at Government level. Accordingly, the Project Officer, ITDA, Rampachodavaram in his Letter dated. 08.01.2013 has enclosed the copy of order issued by the Additional Agent to Government, Alluri Sitharamaraju District passed in C.M.A.No.42/2004, dated.06.12.2005 and the remarks on the affidavit filed by the Petitioner.

6. The said Revision Petition has been posted for hearing before the Hon'ble Revision Authority on several dates and finally 07.03.2023 duly informing the same to the petitioner and defendants. During the course of the hearing and on perusal of the connected records/relevant materials and Para-wise Remarks submitted by the Project Officer, ITDA, Rampachodavaram cum Additional Agent to the Government, Alluri Sitharamaraju District and written arguments filed by both parties counsels, the Revision Authority has observed that:

(a) This Revision Petition has filed against the order passed by the Addl.Agent to Government, Rampachodavaram, Alluri Sitharamaraju District erstwhile East Godavari District in C.M.A.No.29/2003, dated 17-05-2008, confirming the order passed by the Special Deputy Collector, Tribal Welfare, Alluri Sitharamaraju District in LTRP No. 282/2002, dated 31-05-2003 for restoration of the land of an extent of Ac.0.45 in Sy.No.271/6 situated in Rajavommangi (V&M), Alluri Sitharamaraju District erstwhile East Godavari District to the Government for onward assignment to the eligible tribals by evicting the non tribal respondents there in and their men or any other person bound by the order.

(b) The Revision Petitioner Sri Gantla Laxmayya died during the enquiry pending before the Revision Authority, and his son Gantla Apparao was brought on the record by filing a step petition on 26-11-2022 and the same was allowed. The counsel for the Revision Petitioner filed written arguments on 07-03-2023. Heard both sides, The following order is made after perusal of the material documents available on the file.

(c) The contention of the Revision Petitioner is that the Addl.Agent to Government, Rampachodavaram, ASR District erred in confirming the order passed by the Special Deputy Collector (TW), Rampachodavaram, ASR District for the restoration of the Schedule land to the Government is not valid under the law and that he got only land of Ac.0.15 only in Sy.No 271-6d and that they got the land prior to the Land Transfer Regulation 1 of 70 came to in force, as such no prohibited transfer was involved in the case and at present there is a hatched house in the Scheduled Land where in he is living and 5 other families related to him are living in different houses located in the said land and the Lower Court did not see the merits of the case and passed an impugned Order and the Adangal Extract shows that many persons are cultivating the scheduled land but the Revision Petitioner alone was examined for remaining extent of land also and finally requested to set-aside the impugned Order and remand the Case for a fresh enquiry.

(d) In this case an enquiry was initiated on a petition filed by one Smt. Lingeti Laxmi, W/o. Rambabu of Rajavommangi village & Mandal, Rampachodavaram, ASR District in LTRP No. 282/2002 before the Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District under section 3 (1)(a) of the Andhra Pradesh Scheduled Areas Land Transfer Regulation 1 of 1959 as amended by Regulation 1 of 1970. The enquiry held before the SDC (TW), Rampachodavaram, ASR District shows that the Gantla Laxmayya (Revision Petitioner herein) deposed that he purchased the land in question from one Sri Potnuru Nukayya during 1969 through a sale agreement and got it registered in 1970 and paid taxes from 1969 onwards and further deposed that the tribals never cultivated the petition schedule land in question and requested to dismiss the case basing on the documents.

(e) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District found during verification of the documents produced by the non tribal claimant Sri Gantla Laxmayya that as per sale agreement dated 11-9-1969, Gantla Laxmayya purchased an extent of Ac. 0-45 cts in Sy.No. 271/6 from Potnuru Nukanna, S/o. Tammayya for Rs. 400/-. The recitals there in show that Rs. 200/- was given as advance and the balance amount to be paid at the time of registration within 6 months and the land was not handed over to the vendee on that day and the sale got registered through a deed bearing No 556/70, dated: 06-05-1970.

(f) The Special Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District further observed that the recitals in the sale agreement and subsequent registered sale deed effected are not co-relating, and the sale agreement was tampered to show that the land was handed over in 1969 itself and the tax receipt produced was for F.1378 (1968) but the agreement took place on 11-6-1969 which was paid by the Vendee Sri Gantla Laxmayya on behalf of one Chala Polaraju who was not the Vendor and it was over written and a fabricated one.

(g) The unsuccessful non-tribal claimant filed an Appeal before the Addl.Agent to Government. The Addl.Agent to Government dismissed the appeal while upholding the orders passed by the Spl. Deputy Collector (TW), Rampachodavaram, Alluri Sitharamaraju District in LTRP 282 Of 2002, dated.31.5.2003. Therefore the primary authority as well as the appellate authority refused to accept the plea of the Petitioners.

(h) Now the point for the consideration is whether the Sale Agreement in 1969 and subsequent registered sale deed effected in 1970 between the non tribals is valid and proper under the provisions of AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 ?

(i) Section 3(1)(a) prohibits transfer of immovable property situated in the agency tracts by a person whether or not such person is a member of a Scheduled Tribe except to persons or societies mentioned therein. By A. P. Regulation I of 1970, which came into force with effect from 3-2-1970, even transfers made by a non-tribal to a non-tribal of land in the agency tracts were declared as null and void.

(j) The enquiry held before the designated authorities under the Land Transfer Regulations at lower level shows that there is a mismatch of material recitals in the sale agreement, said to have been executed in 1969 and the recitals in the subsequent registered sale deed effected between the non-tribal parties in 1970 after the commencement of AP Scheduled Area Land Transfer Regulations 1 of 70. The enquiry before the Special Deputy Collector (TW), Rampachodavaram, ASR District further reveals that the sale agreement in question was tampered to escape from the clutches of the provisions of the AP LTR 1 of 70 Regulations. Therefore the enquiry proves that it is a fraud upon the AP Scheduled Area Land Transfer Regulations 1 of 70 which was promulgated under Fifth Schedule of the Constitution to safeguard the interest of Scheduled Tribes in the Scheduled Area.

(k) Therefore in respect of physical possession of the land in question, and the material contents in the sale agreement in 1969 are inconsistent with the material recitals stated in the Registered Sale Deed bearing No. 556/70. Hence the transfer of land in question via sale deed bearing No. 556/1970 is null and void and in breach of the provisions of LTR 1 of 70. The Hon'ble High Court of AP held such land transactions are hit by the LTR 1 of 70 (Kakarla Nageswara Rao and Others Vs Government Of A.P. 1995 (3) ALT 164).

(l) The full bench of the Hon'ble High Court of AP in the case of V. Somalamma Vs Deputy Collector, Tribal Welfare (1993(1) ALT 403 (F.B.) held that of a transfer of land situated within the scheduled area by a non-tribal in favour of another nontribal which is absolutely null and void under the provisions of sub-section (1) of section 3, the non-tribal transferor is not entitled to have the land restored to him and that Clause (a) of subsection (2) of Section 3 of Regulation 1 of 1959, as amended by Regulation 1 of 1970, has no application to such a transfer. Even the transferee-non-tribal is also not entitled to retain the property.

(m) These above reasons are sufficient enough to discard the plea of the Revision Petitioner. The impugned order passed by the Addl.Agent to Government, Rampachodavaram, ASR District does not warrant interference by this Revision Authority.

(n) In exercise the powers conferred under section 6 of the AP Scheduled Area Land Transfer Regulations 1 of 59 as amended by 1 of 70 the Revision Petition filed by the Petitioners is hereby dismissed. The impugned order passed by the Additional Agent to Government in C.M.A.No.29/2003, dated: 17-05-2008, confirming the order passed by the Special Deputy Collector, Tribal Welfare, Rampachodavaram, Alluri Sitharamaraju District in LTRP No. 282/2002, dated 31-05-2003 is hereby upheld. As a sequel interim orders if any passed in the matter are hereby vacated. Revision Petition is disposed of accordingly.

7. Government after careful examination of the revision petition and the circumstances stated supra and in exercise of the powers conferred under Section 3 of A.P.S.A.L.T.R., 1959 as amended by Reg. 1/70, the orders passed by

the Appellate Authority Project Officer, ITDA, Rampachodavaram in C.M.A.No.29/2003 are hereby upheld and the Revision petition filed by Sri Gantla Laxmayya, S/o. Laxmayya, R/o. Rajavommangi (V&M), Alluri Sitharamaraju District with regard to the land in Acs.0.45 cts in Sy.No.271/6 of Rajavommangi (V&M), Alluri Sitharamaraju District is Dismissed and Interim orders passed if any are hereby vacated in the matter.

8. The Collector & District Magistrate, Alluri Sitharamaraju District, Paderu is requested to take necessary action in the matter. Accordingly, acknowledge the receipt of the case records, which are returned herewith to the Addititional Agent to Government/ Project Officer, Rampachodavaram, Alluri Sitharamaraju District.

9. This order shall be published in apegazette.cgg.gov.in.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

KANTILAL DANDE
SECRETARY TO GOVERNMENT

To

The Agent to Government/Collector & District Magistrate,
Paderu, Alluri Sitharamaraju District. PIN-530 011.
The Additional Agent to Govt. cum Project Officer,
ITDA, Rampachodavaram,
Alluri Sitharamaraju District, PIN-533 288. (w.e)
The Special Deputy Collector, Rampachodavaram,
Alluri Sitharamaraju District. PIN-533 288
The Tahsildar, Rajavommangi (M), Alluri Sitharamaraju District.
Sri Kola Satyaprasad, Advocate, Rampachodavaram,
Alluri Sitha Ramaraju District, PIN-533288.
Sri Gantla Apparao , S/o.Laxmayya,
R/o.Rajavommangi (V&M), Alluri Sitharamaraju District.
Copy to:
The P.S. to Hon'ble Dy. Chief Minister (TW)
The P.S. to Secretary (TW).
The Commissioner of Printing, Stationery (for Publication in the AP Gazette),
Vijayawada.
SF/SC.

//FORWARDED:: BY ORDER//

SECTION OFFICER